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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,872	10/16/2003	Roger D. Percy	RDPA121854	1376

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EXAMINER	
ISSING, GREGORY C	

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/686,872	PERCY ET AL.	
	Examiner	Art Unit	
	Gregory C. Issing	3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14 and 17-52* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *46-52* is/are allowed.

6)☒ Claim(s) *1-14 and 17-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-14 and 17-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart (6546257) in view of Miller (2001/0037232).

3. Stewart discloses the claimed method for determining the effectiveness of a media display including a mobile terminal 28 that is provided with a positioning means, such as GPS, so as to allow tracking of the mobile terminal, a station 17 including a plurality of databases, a processor and a communication means, and a merchant user 14. The station aggregates the geo-location data provided by the mobile terminal for tracking purposes and trend analysis, compares it to an information location database defining the positions of targeted media displays, and based on the proximity of the mobile terminal location and the targeted media display provides a targeted advertisement. The provision of the advertisement to the mobile terminal on the basis of the predetermined proximity is a measure of the effectiveness of the media display, i.e., it is positively provided to the mobile terminal.

As stated above, the provision of the advertisement is deemed to be a measure of the effectiveness. However, Miller is cited as a further showing of determining the effectiveness of advertisements, such as billboards, mobile ads and the like, by verifying that the user is in the vicinity of the advertisement. This verification may be performed by correlating a GPS location of the user to the known location of the advertisement. Miller also suggests user participation using feedback, i.e. a survey, to aid in the determination of the effectiveness of the advertisement

Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stewart by incorporating the teachings of Miller who clearly indicate

that effectiveness of a media display may be determined by a correlation of the user GPS location and the known location of the advertisement.

Applicants argue that Stewart does not disclose storing geo data in a plurality of respondent monitoring devices as they move along respective paths. This is contrary to the stated disclosure of Stewart since Stewart is related to plural mobile units, i.e., monitoring devices, each of which uses a GPS location detector 40 to determine GPS position and to store it in memory 50 (col. 9, par. 1). Applicants also argue that Stewart does not disclose downloading the data to a post processing server. This is contrary to the disclosure of Stewart since, upon reception of an activation code/request, multiple location and time data stored in memory 48 is transmitted to a base station processor (col. 9, par. 1). Applicant argues that Stewart does not match the location data to media display locations. This is not convincing since Stewart clearly discloses comparison of mobile units' traveling patterns as determined from the location/time data to information in a database 22 related to promotional identification or information related to a merchant; this promotional identification/information meets the scope of a media display. Lastly, applicants argue that Stewart does not rate the effectiveness of the displays utilizing the matches. This is not convincing since the transmission of the promotional information/identification to the mobile unit meets the scope of this limitation. As claimed, the rating of the effectiveness utilizes the matches between the mobile locations and the media locations. Likewise, in Stewart, the comparison of mobile units' locations to a database of media information, the matching of the locations and the subsequent transmission of the media results effectively in rating the effectiveness of the media since a "match" designates the media being effective and a non-match designates the media as not being effective; the transmission of the media provides a further indication of the effectiveness since the media is provided to the mobile unit. In the same manner, the step of determining if a device was exposed to a media display based on whether the monitoring device locations and the media display locations match is met since the result of the comparison in Stewart results in the determination

that a transmission of the promotional information to the mobile unit is an indication that it is exposed to the media display location. Thus, the applicants' argument that the only similarity between the claims and Stewart lie in the single transmission of multiple location information recorded over time is not persuasive and contrary to the teachings of Stewart. Applicants also argue that the prior art may suggest the determination of the effectiveness of advertising but not of media displays; applicants appear to be reading something additional into the term "media display"; any advertisement provided to a user meets the scope since the advertisement is provided to the user for viewing via some form of media. As Stewart discloses a conventional navigation device in the form of a GPS receiver, the conventional accuracy enhancements, PVT data, and mapping data would have been obvious to the skilled artisan.

4. Note: Gilling Research (Gilling), previously cited by applicants, teaches the use of GPS in measuring outdoor reach and frequency, i.e. effectiveness, of media displays. Gilling shows that GPS delivers trackpoint data in the form of a record of coordinates with time and date information, thus, generating a route. The various methods set forth for defining an opportunity to see (OTS) a media display include a trip wire definition and a buffer zone definition. Additionally, information is gathered from a plurality of respondents.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

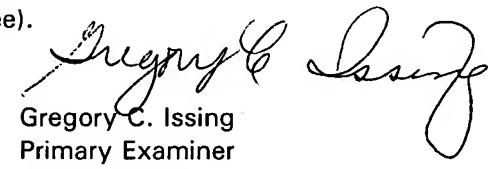
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory C. Issing
Primary Examiner
Art Unit 3662

gci